

Jul 14, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DANIELLE A. N.,

Plaintiff,

v.

FRANK BISIGNANO¹,
Commissioner of Social
Security,

Defendant.

NO. 4:24-CV-5137-TOR

ORDER AFFIRMING
COMMISSIONER'S DENIAL OF
BENEFITS UNDER TITLE XVI OF
THE SOCIAL SECURITY ACT

BEFORE THE COURT is Plaintiff's Motion for judicial review of
Defendant's denial of her application for benefits under Title XVI of the Social

¹Frank Bisignano was sworn in as the Commissioner of Social Security on May 7,
2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank
Bisignano is substituted for Martin O'Malley as the defendant in this suit. No
further action need be taken to continue this under the Social Security Act, 42
U.S.C. § 405(g).

ORDER AFFIRMING COMMISSIONER'S DENIAL OF BENEFITS UNDER
TITLE XVI OF THE SOCIAL SECURITY ACT ~ 1

1 Security Act (ECF No. 13). This matter was submitted for consideration without
2 oral argument. The Court has reviewed the record and files herein and is fully
3 informed. For the reasons discussed below, the Commissioner's denial of
4 Plaintiff's application for benefits under Title XVI of the Social Security Act is
5 AFFIRMED

6 JURISDICTION

7 The Court has jurisdiction under 42 U.S.C. §§ 405(g), 1383(c)(3).

8 STANDARD OF REVIEW

9 A district court's review of a final decision of the Commissioner of Social
10 Security is governed by 42 U.S.C. § 405(g). The scope of review under § 405(g) is
11 limited: the Commissioner's decision will be disturbed "only if it is not supported
12 by substantial evidence or is based on legal error." *Hill v. Astrue*, 698 F.3d 1153,
13 1158-59 (9th Cir. 2012) (citing 42 U.S.C. § 405(g)). "Substantial evidence" means
14 relevant evidence that "a reasonable mind might accept as adequate to support a
15 conclusion." *Id.* at 1159 (quotation and citation omitted). Stated differently,
16 substantial evidence equates to "more than a mere scintilla[,] but less than a
17 preponderance." *Id.* (quotation and citation omitted). In determining whether this
18 standard has been satisfied, a reviewing court must consider the entire record as a
19 whole rather than searching for supporting evidence in isolation. *Id.*

1 In reviewing a denial of benefits, a district court may not substitute its
2 judgment for that of the Commissioner. *Edlund v. Massanari*, 253 F.3d 1152,
3 1156 (9th Cir. 2001). If the evidence in the record “is susceptible to more than one
4 rational interpretation, [the court] must uphold the ALJ’s findings if they are
5 supported by inferences reasonably drawn from the record.” *Molina v. Astrue*, 674
6 F.3d 1104, 1111 (9th Cir. 2012). Further, a district court “may not reverse an
7 ALJ’s decision on account of an error that is harmless.” *Id.* An error is harmless
8 “where it is inconsequential to the [ALJ’s] ultimate nondisability determination.”
9 *Id.* at 1115 (quotation and citation omitted). The party appealing the ALJ’s
10 decision generally bears the burden of establishing that it was harmed. *Shinseki v.*
11 *Sanders*, 556 U.S. 396, 409-10 (2009).

12 **FIVE STEP SEQUENTIAL EVALUATION PROCESS**

13 A claimant must satisfy two conditions to be considered “disabled” within
14 the meaning of the Social Security Act. First, the claimant must be unable “to
15 engage in any substantial gainful activity by reason of any medically determinable
16 physical or mental impairment which can be expected to result in death or which
17 has lasted or can be expected to last for a continuous period of not less than 12
18 months.” 42 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). Second, the claimant’s
19 impairment must be “of such severity that [he or she] is not only unable to do [his
20 or her] previous work[,] but cannot, considering [his or her] age, education, and

1 work experience, engage in any other kind of substantial gainful work which exists
2 in the national economy.” 42 U.S.C. §§ 423(d)(2)(A), 1382c(a)(3)(B).

3 The Commissioner has established a five-step sequential analysis to
4 determine whether a claimant satisfies the above criteria. *See* 20 C.F.R.
5 § 416.920(a)(4)(i)-(v). At step one, the Commissioner considers the claimant’s
6 work activity. 20 C.F.R. § 416.920(a)(4)(i). If the claimant is engaged in
7 “substantial gainful activity,” the Commissioner must find that the claimant is not
8 disabled. 20 C.F.R. § 416.920(b).

9 If the claimant is not engaged in substantial gainful activities, the analysis
10 proceeds to step two. At this step, the Commissioner considers the severity of the
11 claimant’s impairment. 20 C.F.R. § 416.920(a)(4)(ii). If the claimant suffers from
12 “any impairment or combination of impairments which significantly limits [his or
13 her] physical or mental ability to do basic work activities,” the analysis proceeds to
14 step three. 20 C.F.R. § 416.920(c). If the claimant’s impairment does not satisfy
15 this severity threshold, however, the Commissioner must find that the claimant is
16 not disabled. *Id.*

17 At step three, the Commissioner compares the claimant’s impairment to
18 several impairments recognized by the Commissioner to be so severe as to
19 preclude a person from engaging in substantial gainful activity. 20 C.F.R.
20 § 416.920(a)(4)(iii). If the impairment is as severe or more severe than one of the

1 enumerated impairments, the Commissioner must find the claimant disabled and
2 award benefits. 20 C.F.R. § 416.920(d).

3 If the severity of the claimant's impairment does meet or exceed the severity
4 of the enumerated impairments, the Commissioner must pause to assess the
5 claimant's "residual functional capacity." Residual functional capacity ("RFC"),
6 defined generally as the claimant's ability to perform physical and mental work
7 activities on a sustained basis despite his or her limitations (20 C.F.R.
8 § 416.945(a)(1)), is relevant to both the fourth and fifth steps of the analysis.

9 At step four, the Commissioner considers whether, in view of the claimant's
10 RFC, the claimant is capable of performing work that he or she has performed in
11 the past ("past relevant work"). 20 C.F.R. § 416.920(a)(4)(iv). If the claimant is
12 capable of performing past relevant work, the Commissioner must find that the
13 claimant is not disabled. 20 C.F.R. § 416.920(f). If the claimant is incapable of
14 performing such work, the analysis proceeds to step five.

15 At step five, the Commissioner considers whether, in view of the claimant's
16 RFC, the claimant is capable of performing other work in the national economy.
17 20 C.F.R. § 416.920(a)(4)(v). In making this determination, the Commissioner
18 must also consider vocational factors such as the claimant's age, education and
19 work experience. *Id.* If the claimant is capable of adjusting to other work, the
20 Commissioner must find that the claimant is not disabled. 20 C.F.R.

1 § 416.920(g)(1). If the claimant is not capable of adjusting to other work, the
2 analysis concludes with a finding that the claimant is disabled and is therefore
3 entitled to benefits. *Id.*

4 The claimant bears the burden of proof at steps one through four above.
5 *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999). If the analysis proceeds to
6 step five, the burden shifts to the Commissioner to establish that (1) the claimant is
7 capable of performing other work; and (2) such work “exists in significant
8 numbers in the national economy.” 20 C.F.R. § 416.960(c)(2); *Beltran v. Astrue*,
9 700 F.3d 386, 389 (9th Cir. 2012).

10 **ALJ’s FINDINGS**

11 On March 24, 2022, Plaintiff protectively filed for Title XVI supplemental
12 security income, alleging a disability onset date of March 1, 2022. Administrative
13 Transcript (Tr.) ECF No. 6 at 22. Plaintiff generally alleged she was disabled due
14 to Raynauds syndrome, Marfan syndrome, major depressive disorder, social
15 anxiety disorder, gender dysphoria, avoidant personality disorder, post-traumatic
16 stress disorder, learning disorder with impaired reading and writing, mitral valve
17 prolapse, history of gender reassignment surgery, status-post gender-affirming
18 facial surgery, autoimmune thyroiditis, stage III chronic kidney disease, recurrent
19 urinary tract infection, scoliosis, and headaches. Tr. 25. Her application was
20 denied on October 31, 2022, and upon reconsideration on June 20, 2023. Tr. 22.

1 By mutual agreement, the Administrative Law Judge (“ALJ”) conducted a
2 telephonic hearing on May 15, 2024. Tr. 22. The ALJ then denied Plaintiff’s
3 claims on June 2, 2024. Tr. 39.

4 At step one, the ALJ determined that Plaintiff had not engaged in substantial
5 gainful employment since March 24, 2022, the date of application. Tr. 24. At step
6 two, the ALJ determined that Plaintiff’s Raynaud’s syndrome, seizure disorder,
7 Marfan syndrome, major depressive disorder, social anxiety disorder, gender
8 dysphoria, avoidant personality disorder, post-traumatic distress disorder
9 (“PTSD”), and learning disorder with impaired reading and writing were severe
10 impairments, supported by the medical record. Tr. 24. The ALJ found that
11 Plaintiff’s mitral valve prolapse, history of gender reassignment surgery, status-post
12 gender-affirming facial surgery, autoimmune thyroiditis, stage III kidney disease,
13 and recurrent urinary tract infection to be non-severe medically determinable
14 impairments. Finally, the ALJ found Plaintiff’s headaches and scoliosis to be
15 nonmedically determinable. Tr. 25.

16 At step three, the ALJ determined that Plaintiff’s physical impairments do
17 not meet or medically equal a listed impairment pursuant to 20 CFR Part 404,
18 Subpart P, Appendix 1 (20 CFR 416.920(d), 416.925 and 416.926). Tr. 25. With
19 respect to Plaintiff’s cardiovascular impairments, the ALJ was not presented with
20 the appropriate diagnostic and clinical findings pursuant to the listing. Tr. 25. The

ALJ found that Plaintiff's seizure patterns did not meet the requirements of listing 11.02. Tr. 25. Likewise, the ALJ found that Plaintiff's Marfan syndrome symptoms did not comport with a listing as related to either 14.06 and 14.09, dealing with connective tissues and inflammatory arthritis, and 1.00 dealing with musculoskeletal disorders. Tr. 26. Regarding Plaintiff's mental impairments, the ALJ determined that Plaintiff had moderate impairments in understanding, remembering, or applying information, interacting with others, concentrating, persisting, or maintaining pace, and adapting or managing oneself. Tr. 25–28. The ALJ also did not find that Plaintiff had a “paragraph C” listing because she did not produce evidence of “medical treatment, mental health therapy, psychosocial support, or a highly structured setting that is ongoing that diminishes the symptoms and signs of a mental health disorder” and “marginal adjustment, demonstrated as minimal capacity to adapt to changes in environment or to demands that are not already part of daily life.” Tr. 28.

The ALJ determined that Plaintiff has the Residual Functional Capacity (“RFC”) to perform the following:

[M]edium work as defined in 20 CFR 416.967(c) except the individual can occasionally climb ramps and stairs, but never climb ladders, ropes, or scaffolds. The individual can frequently stoop, crouch, kneel, and crawl. The individual can never perform driving as a job duty. The individual should avoid all exposure to loud noise, excessive vibrations, and workplace hazards, such as dangerous moving machinery and unprotected heights. The individual is limited to performing simple tasks. The individual can tolerate occasional changes in the work

1 setting. The individual can tolerate frequent interaction with coworker
2 and supervisors. The individual can tolerate occasional interaction with
the public.

3 Tr. 28.

4 In making this determination, the ALJ found that Plaintiff's medically
5 determinable impairments could reasonably cause some of the alleged symptoms,
6 but that her statements concerning intensity, persistence, and limiting effects were
7 not consistent with the overall record. Tr. 29–30. The ALJ opined that the
8 medical evidence provided some degree of limitation, but does not support the
9 degree that Plaintiff presents.

10 Regarding her physical impairments, the ALJ discussed that two surgeries to
11 repair a post-gender reassignment surgery rectovaginal fistula were cancelled due
12 to partial seizures observed during pre-operation examination, one in September
13 and one in December of 2020. Tr. 30. Plaintiff's right arm and head were
14 twitching but she was alert and verbal during the seizure. Tr. 30. In March 2021,
15 Plaintiff sought seizure management treatment from Dr. Steven Erlemeier, and was
16 prescribed 300 milligrams of Gabapentin three times per day with mixed results
17 through 2022 and 2023. Tr. 30–31. In November 2023, Plaintiff reported that she
18 had not had a seizure in the past 30-60 days, despite not receiving Gabapentin due
19 to a pharmacy error. Tr. 31. The ALJ noted "conservative" hypothyroid treatment
20 and hormone therapy with Dr. Bruce Wilson from May 2021 until November

1 2023. Tr 30. In August 2022, Plaintiff underwent gender-affirming facial
2 feminization surgery and had recovered by November 2022. Tr. 31. Plaintiff
3 underwent a consultative exam with Oscar Del Valle, ARNP, who limited her to
4 light work after completing a “normal physical examination.” Tr. 31. In
5 December 2023, she was examined at Walla Walla Cardiology related to her
6 syncope, collapse, and shortness of breath. Tr. 31. The results did not indicate
7 congestive heart failure, and she was rated in class I of the New York Heart
8 Association functional class. Tr. 31.

9 The ALJ found the opinion of Dr. Howard Platter, the State Agency medical
10 consultant, somewhat persuasive. Tr. 36. Dr. Platter completed a “Physical
11 Residual Functional Capacity Assessment,” where he found that Plaintiff could lift
12 or carry 50 pounds occasionally and 25 pounds frequently, could stand and/or walk
13 for about 6 hours in an 8-hour workday, but could never climb ladders, ropes, and
14 scaffolds, and should avoid exposure to workplace hazards. Tr. 36. The ALJ
15 credited Dr. Platter’s assessment as taking into account Plaintiff’s Reynaud’s
16 syndrome and fatigue. Tr. 36.

17 In May 2023, State Agency consultant Dr. Lewis W. completed a “Physical
18 Residual Functional Capacity Assessment,” in which he found no severe physical
19 impairments. Tr. 36. The ALJ did not assign this opinion any weight.

20 The ALJ found ARNP Del Valle’s consultative opinions to be unpersuasive

1 because it is internally inconsistent. Tr. 36. Specifically, the ALJ found that,
2 despite a normal physical examination excluding some spine deviation, ARNP
3 restricted Plaintiff's lifting and carrying to 20-25 pounds occasionally, walking to
4 three hours per day, and standing to three hours per day. Tr. 36. The ALJ found
5 that while Plaintiff's Reynaud's syndrome and Marfan syndrome restrict Plaintiff
6 to medium work, the record does not support the level of extreme restriction found
7 by ARNP Del Valle. Tr. 36. Moreover, the ALJ found inconsistencies with
8 Plaintiff's ability to drive and shop, and found that ARNP Del Valle made
9 psychological findings during a physical consultative examination. Tr. 36

10 As to her mental health impairments, the ALJ noted Plaintiff's long history
11 with gender dysphoria and social anxiety disorder. Tr. 31. After attempting to
12 overdose in September 2019, Plaintiff was assessed for suicide risk relating to her
13 gender transition surgeries. Tr. 31. She declined inpatient hospitalization related
14 to her mental health. Tr. 32. In November 2021 and February 2022, Plaintiff
15 requested Spravato treatment for severe anxiety and depression. Tr. 32. In April
16 2022, she presented with a very high score for suicide risk, but refused to speak to
17 a counselor or try a new antidepressant. Tr. 32. In June 2022, her counselor had
18 recently retired, and she was concerned about finding a new psychiatrist competent
19 in transitioning and transitioned patients. Tr. 32.

20 In September 2022, Plaintiff underwent a consultative physiological

1 examination with Dr. Jeanette Higgins, where she reported ongoing severe anxiety
2 and depression and detailed her learning disability, discussing how she had utilized
3 special education and ultimately never received a GED. Tr. 32. Dr. Higgins
4 categorized Plaintiff's depression and anxiety as severe, but treatable within 12
5 months, making such findings as: Plaintiff is able to manage funds in her own best
6 interest, she would not have difficulty performing simple and repetitive tasks, she
7 would have difficulty performing detailed and complex tasks on a consistent basis
8 due to her learning difficulties and anxiety, she would not have difficulty accepting
9 instructions from supervisors, she would have difficulty interacting with coworkers
10 and the public due to her anxiety and avoidance, she would not have difficulty
11 performing work activities on a consistent basis, she would have difficulty
12 maintaining regular attendance, and she would have difficulty dealing with
13 workplace stress. Tr. 32–33.

14 The ALJ found Dr. Higgin's opinion unpersuasive. Tr. 35. While Dr.
15 Higgins found that Plaintiff would have a marked limitation in maintaining regular
16 attendance and dealing with stress in the workplace, the ALJ did not find this
17 consistent with the rest of the medical record, and determined that the opinion
18 relied on subjective allegations based on evidence that Plaintiff was taking her
19 mental health medication, was at a baseline, and refused to see a psychiatrist or try
20 other medications. Tr. 35

1 In June 2023, Plaintiff underwent a consultative psychological examination
2 with Angela Cowell, PMHNP, presenting with anxiety, depression, chronic
3 fatigue, and suicidal thoughts. Tr. 33. Among her symptoms of anxiety and
4 depression included a report that she had not been to a store in two years. Tr. 33.
5 After the exam, ARNP Cowell diagnosed Plaintiff with PTSD, social anxiety
6 disorder, and major depressive disorder, and made the following findings: Plaintiff
7 was not able to manage funds, Plaintiff is able to understand, remember, and carry
8 out simple instructions but not complex instructions, she is not able to sustain
9 concentration and persist in work-related activity at a reasonable pace, and she is
10 neither able to interact with coworkers and supervisors, nor with the general
11 public. Tr. 34.

12 The ALJ found ARNP Cowell's opinion unpersuasive, as the finding of
13 marked or severe mental functioning do not appear in the treatment records. Tr.
14 35.

15 State Agency psychologist Dr. Kristine Harrison completed a "Psychiatric
16 Review Technique Form," and found that Plaintiff had a moderate limitation in
17 understanding, remembering, and applying information; a moderate limitation in
18 interacting with others; a moderate limitation in maintaining concentration,
19 persistence, or pace; and a mild limitation in adapting or managing oneself. Tr. 34.
20 Dr. Harrison also completed a "Mental Residual Functional Capacity Assessment,"

1 where she found that Plaintiff had a moderate limitation in understanding and
2 remembering information, carrying out detailed instructions, maintaining attention
3 and concentration for an extended period, completing a normal workday and
4 workweek without interruption, interacting with others, and accepting instruction
5 and responding appropriately to criticism. Tr. 35.

6 In June 2023, State Agency psychologist Dr. Michael B. completed a
7 “Psychiatric Review Technique Form,” where he found that Plaintiff had a
8 moderate limitation in understanding, remembering, or applying information,
9 interacting with others, maintaining concentration, and adapting or managing
10 oneself. Tr. 35. Dr. B also completed a “Mental Residual Functional Capacity
11 Assessment,” where he found Plaintiff had a moderate limitation in her ability to
12 understand and remember detailed instructions, carry out detailed instructions,
13 maintain attention and concentration for extended periods, complete a normal
14 workday without interruptions, interact appropriately with the general public,
15 accept instructions and criticisms from supervisors, get along with coworkers or
16 peers, respond appropriately to the changes in a work setting, and set realistic goals
17 or make plans independently of others. Tr. 35.

18 The ALJ found Dr. Harrison’s opinion somewhat persuasive and Dr. B’s
19 opinion more persuasive as more consistent with the record. Tr. 35.

20 The ALJ reviewed the “Mental Medical Source Statements,” of Oliver

1 Lawler, LMSW, and found that he is not an appropriate medical source per
2 404.1502(a), as an individual licensed master social worker. Tr. 36. The ALJ
3 concluded that his findings of extreme limitations are unsupported in the medical
4 record. Tr. 36.

5 Likewise, the ALJ found that the letter submitted by Oliver Birchwood-
6 Glover, LICSW as unpersuasive both because he is not an acceptable medical
7 source pursuant to 404.1502(a), an individual who is a licensed independent
8 clinical social worker and the statements contained therein are unsupported by the
9 medical record. Tr. 36.

10 In taking into account the objective medical evidence, Plaintiff's subjective
11 complaints, and the treatment required, the ALJ determined that the medical
12 evidence was inconsistent with the subjective allegations. Tr. 36–37. Plaintiff has
13 been taking medication for anxiety, was trying to find a new mental health
14 counselor, believed her impairments related to her environment, and that her
15 mental health improved with gender affirming surgery. Tr. 37. She also testified
16 that her seizure disorder does not impair her ability to drive. Tr. 37.

17 At step four, the ALJ determined that Plaintiff has no past relevant work
18 history. Tr. 37.

19 At step five, the ALJ determined that Plaintiff is able to perform work in the
20 national economy based on her age, work experience, and residual functional

1 capacity. Tr. 37–38. At the hearing, the vocational expert assessed opportunities
2 for an unskilled, medium work occupational base and determined that jobs such as
3 cleaner custodian, kitchen helper, and linen room attendant would be available
4 nationally. Tr. 38.

5 Given the above steps, the ALJ determined that Plaintiff was not disabled.

6 ISSUES

7 Plaintiff seeks judicial review of the Commissioner’s final decision denying
8 her application for Title XVI supplemental security income. Plaintiff raises the
9 following issues on review:

10 I. Whether the ALJ erred in rejecting certain medical opinions.

11 II. Whether the ALJ erred in rejecting her subjective symptom testimony.

12 ECF No. 13 at 7, 12.

13 DISCUSSION

14 I. The ALJ did not err in rejecting certain medical opinions.

15 Plaintiff argues that the ALJ erred by rejecting medical opinions from
16 multiple sources that disagreed with her findings. ECF No. 13 at 7. An ALJ must
17 consider and evaluate the persuasiveness of all medical opinions or prior
18 administrative medical findings from medical sources. 20 C.F.R. § 416.920c(a)-
19 (b). The factors for evaluating the persuasiveness of medical opinions and prior
20 administrative medical findings include supportability, consistency, relationship

1 with the claimant, specialization, and “other factors that tend to support or
2 contradict a medical opinion or prior administrative medical finding” including but
3 not limited to “evidence showing a medical source has familiarity with the other
4 evidence in the claim or an understanding of our disability program’s policies and
5 evidentiary requirements.” 20 C.F.R. § 416.920c(c)(1)-(5).

6 The ALJ is required to explain how the most important factors,
7 supportability and consistency, were considered. 20 C.F.R. § 416.920c(b)(2).

8 These factors are explained as follows:

9 (1) *Supportability*. The more relevant the objective medical evidence and
10 supporting explanations presented by a medical source are to support his
11 or her medical opinion(s) or prior administrative medical finding(s), the
more persuasive the medical opinions or prior administrative medical
finding(s) will be.

12 (2) *Consistency*. The more consistent a medical opinion(s) or prior
13 administrative medical finding(s) is with the evidence from other medical
14 sources and nonmedical sources in the claim, the more persuasive the
medical opinion(s) or prior administrative medical finding(s) will be.

15 20 C.F.R. § 416.920c(c)(1)-(2).

16 The ALJ may, but is not required to, explain how “the other most persuasive
17 factors in paragraphs (c)(3) through (c)(5)” were considered. 20 C.F.R.

18 § 416.920c(c)(b)(2). However, where two or more medical opinions or prior

19 administrative findings “about the same issue are both equally well-supported ...

20 and consistent with the record ... but are not exactly the same,” the ALJ is required

1 to explain how “the most persuasive factors” were considered. 20 C.F.R.
2 § 416.920c(c)(b)(2).

3 The ALJ determined that ARNP Del Valle placed restrictions on Plaintiff
4 not observed by other medical sources, including lifting 20-25 pounds occasionally
5 and walking or standing for three hours a day, but that there is no support in the
6 record for that level of limitation. Tr. 36. Additionally, the opinion stated that
7 Plaintiff does not drive but is able to shop for groceries. Yet at the hearing,
8 Plaintiff testified that she does drive, but that she had not been to a store in 15
9 years. Tr. 36. The ALJ discredited Dr. Higgins’ opinion as unsupported by the
10 record, and because it relied on Plaintiff’s own testimony that she was taking
11 mental health medications and was at “baseline.” Tr. 35. The ALJ rejected the
12 opinion of Angela Cowell, ARNP, because objective medical evidence reviewed
13 by the ALJ contradicted her finding that Plaintiff had a marked limitation in
14 concentration, persistence, and pace. Tr. 35. In discounting ARNP Cowell’s
15 opinion, the ALJ points to Plaintiff’s treatment notes from doctors surrounding her
16 transition that discuss the trajectory of her depression and suicidal ideation. ECF
17 No. 6 at 666–71 and 716–17. Plaintiff argues that the ALJ erred by not
18 considering whether these opinions were consistent with each other. ECF No. 13
19 at 8–12. And further alleges that the ALJ took into account the non-examining
20 non-treating agency sources of Dr. Kristine Harrison and Dr. Micheal B. because

1 their opinions supported her ultimate finding. *Id.* at 12.

2 The Court finds that the ALJ has provided reasons grounded in consistency
3 and supportability for adopting the opinions of Dr. Harrison and Dr. B and
4 discounting those of Dr. Higgins, ARNP Cowell and ARNP Del Valle. The ALJ
5 explained that a holistic review of the medical records provided more support for
6 the findings of Dr. B and Dr. Harrison, and less support for the findings of Dr.
7 Higgins, ARNP Cowell and ARNP Del Valle. This reasoning is supported, as Drs.
8 B and Harrison reviewed the Plaintiff's medical records in rendering their
9 decisions. *Zuniga v. Saul*, 801 Fed. Appx. 465, 467 (9th Cir. 2019) (citing
10 *Tonapetyan v. Halter*, 242 F.3d 1144, 1148–49 (9th Cir. 2001)). Moreover, the
11 ALJ provided specific reasons for rejecting each of the opinions separate from
12 their individual inconsistency with the record as a whole. Dr. Higgins relied on
13 Plaintiff's subjective reports and refusal to see a psychiatrist or behavioral health
14 specialist as the basis for her findings. Tr. 35. This is confirmed in Dr. Higgin's
15 report, which also stated that Plaintiff's mental health conditions are treatable and
16 could be expected to improve within 12 months with psychotherapy and/or
17 medication management. ECF No. 6 at 705–10. As stated above, the ALJ pointed
18 to specific records she found to be inconsistent with ARNP Cowell's
19 determination. Tr. 35. Notably, ARNP Cowell also found that Plaintiff could
20 improve with optimal treatment over a 12-month period. ECF No. 6 at 807. And

1 Plaintiff's testimony contradicts ARNP Del Valle's findings, and the record
2 contradicts the physical limitations imposed. ECF No. 6 at 54–55 and 782–87.

3 Plaintiff has not met her burden to show that the ALJ's interpretation of the
4 challenged opinions was unsupported by substantial evidence. As aforementioned,
5 “[s]ubstantial evidence is more than a mere scintilla but less than a
6 preponderance.” *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007) (citation
7 omitted). The ALJ's decision should be upheld where the “evidence is susceptible
8 to more than one rational interpretation.” *Id.* (citation omitted). The court “must
9 uphold the ALJ's findings if they are supported by inferences reasonably drawn
10 from the record.” *Molina*, 674 F.3d at 1111. Here, the Court finds adequate
11 findings that articulate specific consistency and supportability factors used to
12 discount certain medical opinions. As such, the ALJ is affirmed.

13 **II. The ALJ did not err in consideration of Plaintiff's subjective**
14 **complaints.**

15 Next, Plaintiff argues that the ALJ improperly discounted her subjective
16 symptom testimony by not offering specific evidence that was deemed inconsistent
17 with her testimony. ECF No. 13 at 15–16.

18 In social security proceedings, a claimant must prove the existence of
19 physical or mental impairment with “medical evidence consisting of signs,
20 symptoms, and laboratory findings.” 20 C.F.R. § 404.1508. A claimant's

1 statements about his or her symptoms alone will not suffice. 20 C.F.R.
2 §§ 404.1508; 404.1527. Once an impairment has been proven to exist, the
3 claimant need not offer further medical evidence to substantiate the alleged
4 severity of his or her symptoms. *Bunnell v. Sullivan*, 947 F.2d 341, 345 (9th Cir.
5 1991). As long as the impairment “could reasonably be expected to produce [the]
6 symptoms,” 20 C.F.R. § 404.1529(b), the claimant may offer a subjective
7 evaluation as to the severity of the impairment. *Id.* This rule recognizes that the
8 severity of a claimant’s symptoms “cannot be objectively verified or measured.”
9 *Id.* at 347 (quotation and citation omitted).

10 However, in the event an ALJ finds the claimant’s subjective assessment
11 unreliable, “the ALJ must make a credibility determination with findings
12 sufficiently specific to permit the court to conclude that the ALJ did not arbitrarily
13 discredit claimant’s testimony.” *Thomas v. Barnhart*, 278 F.3d 947, 958 (9th Cir.
14 2002). In making such determination, the ALJ may consider, *inter alia*: (1) the
15 claimant’s reputation for truthfulness; (2) inconsistencies in the claimant’s
16 testimony or between his testimony and his conduct; (3) the claimant’s daily living
17 activities; (4) the claimant’s work record; and (5) testimony from physicians or
18 third parties concerning the nature, severity, and effect of the claimant’s condition.
19 *See id.* If there is no evidence of malingering, the ALJ’s reasons for discrediting
20 the claimant’s testimony must be “specific, clear and convincing.” *Chaudhry v.*

1 *Astrue*, 688 F.3d 661, 672 (9th Cir. 2012) (quotation and citation omitted). The
2 ALJ “must specifically identify the testimony she or he finds not to be credible and
3 must explain what evidence undermines the testimony.” *Holohan v. Massanari*,
4 246 F.3d 1195, 1208 (9th Cir. 2001).

5 At step one, the ALJ found that Plaintiff’s medically determinable
6 impairments could reasonably be expected to cause the alleged symptoms. Tr. 29–
7 30. But at step two, the ALJ determined that the intensity, persistence, and
8 limiting effect of the symptoms were not entirely consistent with the record. An
9 ALJ may not discredit a claimant’s symptom testimony and deny benefits solely
10 because the degree of the symptoms alleged is unsupported by objective medical
11 evidence. *Rollins v. Massanari*, 261 F.3d 853, 857 (9th Cir. 2001); *Bunnell v.*
12 *Sullivan*, 947 F.2d 341, 346–47 (9th Cir. 1991); *Fair v. Bowen*, 885 F.2d 597, 601
13 (9th Cir. 1989). However, the objective medical evidence is a relevant factor,
14 along with the medical source’s information about the claimant’s pain or other
15 symptoms, in determining the severity of a claimant’s symptoms and their
16 disabling effects. *Rollins*, 261 F.3d at 857; 20 C.F.R. § 416.929(c)(2). Here, the
17 ALJ found that Plaintiff’s medication has managed her seizures, and she is able to
18 drive, despite conflicting opinion reports stating otherwise. Tr. 29. She can
19 complete chores and hygiene tasks. Tr. 29. And the ALJ determined that the
20 objective medical records do not support the level of physical debilitation Plaintiff

described. *See* ECF No. 6 at 77, 787 (“As expected, pts PE was completely normal, with exception to spine deviation which would most likely be related to her [M]arfan syndrome.”). Her mental health records do not support any marked or extreme limitations. Tr. 37. Moreover, her testimony at the hearing was inconsistent with reports contained in the medical records with respect to driving and daily activities. *See* ECF No. 6 at 54–55. Therefore, the Court does not find that the ALJ erred in her findings of Plaintiff’s subjective complaints.

ACCORDINGLY, IT IS HEREBY ORDERED:

1. Plaintiff’s Opening Brief (ECF No. 13) is **DENIED**.

2. Defendant’s Response Brief (ECF No. 14) is **GRANTED**. The decision of the Commissioner is **AFFIRMED**.

The District Court Executive is directed to enter this Order and Judgment accordingly, furnish copies to counsel, and **CLOSE** the file.

DATED July 14, 2025.



Thomas O. Rice
THOMAS O. RICE
United States District Judge